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BY EMAIL and RESS

January 15, 2013

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario, M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2011-0140 – RES Confidentiality – SEC Objections

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order #4, these are SEC’s submissions with respect to RES Canada Transmission LP (“RES”) request for confidentiality treatment of certain information contained in its designation application.

The successfully proponent will be allowed to recover its prudently incurred development costs potentially between \$18.18 to \$45 million, and will be the transmitter designated to bring forth a leave to construct application for the East-West Tie Line whose construction cost could potentially be between \$392 to \$712 million.¹ This is a significant amount of money for a very important project. It is important that the public has access to all the information that the Board does in its determination of who becomes the designated transmitter.

All the documents that RES seeks confidentiality treatment for are all important aspects of their application and because of that should be placed on the public record.

Proprietary Information

RES is seeking confidentiality treatment over a number of documents (in full or in part) on the basis that the information is proprietary in nature. RES undertook to prepare of the information for the sole purpose of this application. It relies on the access road and staging information for the purposes of supporting its proposed route selection, a requirement of the *Filing Guidelines*. It also undertook the development an Environmental Assessment Plan to support other requirements of the *Filing Guidelines*.

The *Practice Direction on Confidentially Filings* is clear, “the onus is on the person requesting confidentiality to demonstrate to the satisfaction of the Board that confidential treatment is

¹ Range of estimated development and construction costs contained in the various designation applications.

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warranted in any given case.”² RES has not provided a reason why this information would harm its competitive position in Ontario. It cannot simply just assert it. Considering that no other designation proponent has sought confidentiality treatment over any part of their application should lead the Board to conclude that a claim that that “[d]isclosure of this information could harm the competitive position of RES Transmission in connection with its commercial activities in Ontario”, is greatly exaggerated.³

The nature of this site specific information would seem to be a reason why this information would not harm its competitive position. The information is only useful for this project. Even if another proponent is ultimately designated and uses the information, RES would not be harmed. It is to the benefit to Ontario ratepayers and the system as a whole that the designated proponent potentially may improve on its eventual leave to construct application by incorporating helpful elements of the applications of the unsuccessful proponents.

Financial Information

RES is also seeking confidentiality treatments over financial statements of Renewable Energy Holdings. SEC submits this information should be public. No other party to this proceeding has requested confidentiality treatment over their (or affiliates) financial statements.

The importance of this information is clear. Financial information is key in determining the financial capability of a proponent to undertake to ultimately construct and operate the East-West Tie Line. The public should have access to the same type of information from all proponents. An important source of financial information is the audited financial statements. The Dun and Bradstreet Review is inadequate since it does not provide the same level of detail and accuracy that an audited financial statement includes.

Unlike a license application, where confidential treatment is often afforded to certain financial documents, in this proceeding each proponent is required to provide significantly more detailed information about its financial capabilities.⁴ This reflects the importance of the information to the outcome and because of that should be placed on the public record.

SEC submits that the Board should not accord confidentiality treatment to Renewable Energy Holdings’ audited financial statements.

Yours very truly,
Jay Shepherd P.C.

Original signed by

Mark Rubenstein

cc: All Registered Transmitters and Intervenors (by email)

² *Practice Direction on Confidential Filings* at p. 2

³ RES Application, Tab A-1-1

⁴ *EB-2011-0282, Decision and Order* dated December 5, 2011 at p.4